

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA)	CR No.: 3:17-246-JFA
)	
v.)	MEMORANDUM OPINION
)	AND ORDER
NOAH BILLIE)	
_____)	

This matter is before the court on defendant's second *pro se* motion for a reduction in his sentence pursuant to the First Step Act of 2018 and 18 U.S.C. § 3582(c)(1)(A) (ECF No. 189). Seeking compassionate release, the defendant asserts that he has medical conditions which could threaten his life if he were to contract COVID-19.

On October 15, 2021, this court entered a Memorandum Opinion and Order denying the defendant's first *pro se* motion for compassionate release. In that motion, the defendant asserted that he had medical conditions which could threaten his life if he were to contract COVID-19. Therein, he primarily contended that his obesity and hypertension would likely cause significant complications should he contract COVID-19. In opposing the first motion, the government pointed out that the defendant's medical records at the Bureau of Prisons (BOP) indicated that both his hypertension and hyperlipidemia were under control with medication. The government also pointed out that the defendant's Body Mass Index (BMI) noted in his medical records was 45.6.

On this record, the court determined that the defendant had, in fact, demonstrated an extraordinary and compelling reason based upon his obesity and hypertension. Moving on

to the second step of the analysis, however, this court indicated that it was “of the strong opinion” that the defendant should remain in place after carefully considering the § 3553(a) sentencing factors and conducting a detailed inquiry into the defendant’s post-sentencing conduct.

A review of the docket reveals that the defendant filed an appeal of this court’s October 2021 order. However, on December 15, 2021, the Fourth Circuit Court dismissed the appeal for the defendant’s failure to prosecute pursuant to Local Rule 45.

The defendant now returns with a motion for “an expedited order on his motion for compassionate release.” (ECF No. 208). The body of the motion indicates that the defendant is filing his second motion for compassionate release seeking to have the court reconsider its prior ruling in October 2021 (ECF No. 200). In his present motion, the defendant essentially argues that the COVID-19 problem has grown worse and that his medical condition has worsened as well. He argues that he “now faces certain circumstances different than when this court issued its ruling on 10/15/21.” The defendant has not provided any medical records from the BOP to support his new claims.

Giving the defendant the benefit of the doubt and assuming that his medical condition has in fact worsened since this court’s order of approximately 3 months ago, this court is still constrained to deny relief. As indicated above, this court determined in the defendant’s first motion that he had demonstrated extraordinary and compelling reasons for his immediate release based upon his medical condition. But it was the court’s review of the § 3553(a)

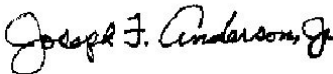
factors, coupled with the defendant's post-sentencing conduct, that caused this court to reach the conclusion that his immediate release was not justified.

The court's analysis of the § 3553(a) factors has not changed in 3 months. Moreover, the defendant's post-sentencing conduct has not changed either. In his present motion, the defendant points out that he has no disciplinary infractions on his record. The court squarely took this into account in its October 2021 order. The defendant points out that he is working on his GED. Again, the court made note of this fact in its earlier ruling.

In light of the foregoing, the court must deny the defendant's second motion. The court determined earlier that the defendant's medical condition constituted extraordinary and compelling reasons for his release, but determined that, upon careful review of the second step of the analysis, the defendant's release was not appropriate. The court reaches the same conclusion on the defendant's motion for reconsideration. The motion is respectfully denied.

IT IS SO ORDERED.

January 31, 2022
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.